

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Nov 09, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARTURO TEJEDA-GOMEZ,

Defendant.

No. 4:21-CR-06004-SMJ-1

ORDER DENYING DEFENDANT'S
MOTION TO REOPEN
DETENTION HEARING

ECF No. 87

On November 4, 2021, the Court conducted a continuation of a hearing on Defendant's Motion to Reopen Detention Hearing (ECF No. 87). With Defendant's consent, Defendant appeared by video from Benton County Jail and was represented by Kenneth Therrien. Assistant United States Attorney Benjamin Seal represented the United States.

The Court has considered the additional information and has evaluated the four factors outlined in 18 U.S.C. § 3142(g) to decide whether there are conditions of release that would reasonably assure Defendant's appearance in court and the safety of the community: (1) the nature and circumstances of the offense; (2) the

ORDER DENYING DEFENDANT'S MOTION TO REOPEN DETENTION
HEARING - 1

1 weight of evidence against Defendant; (3) the history and characteristics of
2 Defendant; and (4) the nature and seriousness of the danger Defendant would
3 present to the community if released. The Court finds that these factors, as set
4 forth orally by the Court, weigh in favor of Defendant's continued detention.

5 Due to the nature of the charges, there is a rebuttable presumption of
6 detention in this case. Defendant is charged with conspiracy to distribute 400
7 grams or more of a mixture containing fentanyl and distribution of 40 grams or
8 more of fentanyl.

9 The weight of the evidence is the least important factor and Defendant is
10 entitled to a presumption of innocence.

11 Turning to Defendant's history and characteristics, Defendant is 45 years
12 old, was born in Othello, Washington, and has resided in the District for the
13 majority of his life. Defendant's mother is deceased and his father is currently
14 incarcerated in Mexico for kidnapping. Defendant's sister is currently facing
15 federal charges for conspiracy to distribute fentanyl in this district. *See United*
16 *States v. Carina Tejeda*, 4:20-CR-06030-SMJ-3; ECF No. 4. Defendant been
17 married for approximately 20 years and has two adult children and one minor
18 child. If he were to be released, Defendant had proposed he would live with his
19 wife at their home in Pasco, Washington, where they have lived for the past
20

1 approximately 10 years. Defendant has offered this property in support of a
2 financial bond.

3 Defendant has substantial contacts in Mexico. His brother, who the United
4 States proffers was involved in the underlying drug offense, is currently a fugitive
5 in Mexico. ECF No. 25 at 2. Defendant has another brother who is currently
6 incarcerated in Texas on a drug conviction. ECF No. 25 at 2. Defendant's cousin,
7 who is currently facing federal charges for conspiracy and distribution of fentanyl
8 in this district, fled to Mexico while on pretrial release subject to a \$50,000 bond.
9 *See United States v. Morfin Mendoza*, 4:18-CR-06028-EFS-2; ECF Nos. 1, 70, 75,
10 137, 156. Moreover, the Court has now had the opportunity to review the
11 presentence investigation report from his prior drug trafficking conviction, which
12 indicates that offense had substantial ties to Mexico. Given his ties to Mexico and
13 his family members' successful flight to Mexico to avoid facing drug trafficking
14 charges in the United States, the Court finds the risk of nonappearance cannot be
15 mitigated by a bond.

16 The Court has concerns about dangerousness given Defendant's serious
17 criminal history. The Court has considered the presentence investigation report
18 from a 2005 criminal case against Defendant arising out of Texas (ECF No. 89-1),
19 which was not previously available to the Court. According to this report,
20 Defendant was arrested in 1996 coming across the border in a vehicle with 44.5

1 pounds of marijuana in a hidden compartment. No charges against Defendant
2 resulted from this arrest. However, four years later in 2000 Defendant was again
3 arrested and federally charged in the Southern District of Texas for a significant
4 drug trafficking operation which involved importing drugs from Mexico and
5 transporting cash back to Mexico using numerous cars with hidden compartments.
6 Defendant pled guilty and was sentenced to 108 months in prison. This history and
7 its substantial similarity to the current charged offense creates concern about
8 Defendant's risk of dangerousness if he were to be released.

9 The Court has considered Defendant's proposed financial bond. From the
10 Court's perspective, a financial bond does not give the Court assurance that
11 Defendant would appear in court as required. Of particular concern to the Court is
12 the risk of flight to Mexico considering Defendant has family members who have
13 successfully fled to Mexico, including one cousin who successfully fled despite the
14 imposition of a \$50,000 bond. Here, the Court has additional concerns because the
15 property offered in support of the financial bond is associated with Defendant's
16 wife. According to the presentence investigation report from the Southern District
17 of Texas, Defendant's wife, although not charged, was identified as involved in the
18 underlying drug trafficking conduct in 2000 that resulted in Defendant's
19 conviction. From the Court's perspective, this property does not provide sufficient
20

1 incentive for Defendant to stay in the community and address the charges against
2 him.

3 The Court finds a preponderance of the evidence remains that there are no
4 conditions or combination of conditions other than detention that will reasonably
5 assure the appearance of Defendant as required, and furthermore by clear and
6 convincing evidence there are no conditions or combination of conditions other
7 than detention that will ensure the safety of the community.

8 **IT IS ORDERED:**

9 1. Defendant's Motion to Reopen Detention Hearing (**ECF No. 87**) is
10 **DENIED**. Defendant shall remain held in detention pending disposition of this
11 case or until further order of the Court.

12 2. If a party seeks review of this Order by another court pursuant to 18
13 U.S.C. § 3145(b), counsel shall adhere to the Detention Order Review Protocol
14 found in LCrR 46(k).

15 DATED November 9, 2021.

16 s/Mary K. Dimke
17 MARY K. DIMKE
18 UNITED STATES MAGISTRATE JUDGE
19
20